

Office-Supreme Court, U.S.

FILED

DEC 27 1983

ALEXANDER L. STEVENS,
CLERK

NO. 83-383

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

No. 83-383
THE STATE OF FLORIDA,
Petitioner,
vs.
SUZANNE DECONINGH,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

MEMORANDUM FOR THE RESPONDENT
IN OPPOSITION

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Respondent represents to the Court as follows:

1. The instant cause is moot.

The State of Florida initiated appellate proceedings from a pretrial order which suppressed respondent's statements to local police. On September 16, 1981, while discretionary review proceedings were pending in the Supreme Court of

Florida, the respondent entered a negotiated guilty plea to a reduced charge and was placed on probation. This absence of a viable case or controversy deprives this Court of jurisdiction to review the decision of the Supreme Court of Florida. J. Aron & Company v. Mississippi Shipping Company, 361 U.S. 115 (1959) (per curiam).

2. The decision below is based upon independent, adequate state grounds.

The decision below of the Supreme Court of Florida was bottomed on its view that "...the trial court had a proper factual basis to find that DeConingh had made her statement neither knowingly nor voluntarily" (App. p. 13). Because the record supported the trial court's factual finding, the Supreme Court of Florida quashed the adverse opinion of the intermediate appellate court (App. p. 14). According to the Supreme Court of Florida:

The trial court, in spite of the actions of both the deputy and DeConingh, preserved her right not to be compelled to be a witness against herself. Article I, §9, Fla. Const.

(App. pp. 11-12). This reliance upon the state constitution clearly constitutes an independent, adequate state ground upon which the decision below rested. See, Wilson v. Loew's Inc., 355 U.S. 597 (1958); Fox Film Corp. v. Muller, 296 U.S. 207 (1935).

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

KURT MARMAR